



Department of Development Services
205 Lawrence Street
Marietta, Georgia 30060
Brian Binzer, Director

STAFF REVIEW AND RECOMMENDATION

Variance Case #: V2013-04

Legistar #: 20121320

Board of Zoning Appeals Hearing:

Monday, January 28th, 2013

Applicant: Brad Respass
548 Church Street
Marietta, GA 30060

Property Owner: Same as above

Address: 548 Church Street

Land Lot: 10870 District: 16 Parcel: 0360

Council Ward: 4 Existing Zoning: R-3 (Single Family Residential – 3 units/acre)

Special Exception / Special Use / Variance(s) Requested:

1. Variance to reduce the major side setback from 25 ft. to 10 in. [*§708.03 (H)*]

Statement of Fact

As per section 720.03 of the Comprehensive Development Code of Marietta, the Board of Zoning Appeals may alter or modify the application of any such provision in the Development Code because of unnecessary hardship if doing so shall be in accordance with the general purpose and intent of these regulations, or amendments thereto, and only in the event the board determines that by such alteration or modification unnecessary hardship may be avoided and the public health, safety, morals and general welfare is properly secured and protected. In granting any variance the board of zoning appeals shall designate such conditions in connection therewith as will, in its opinion, secure substantially the objectives of these regulations and may designate conditions to be performed or met by the user or property owner, out of regard for the public health, safety, comfort, convenience, and general welfare of the community, including safeguards for, with respect to light, air, areas of occupancy, density of population and conformity to any master plan guiding the future development of the city. The development costs of the applicant as they pertain to the strict compliance with a regulation may not be the primary reason for granting a variance.

Criteria:

1. Exceptional or extraordinary circumstances or conditions *are/are not* applicable to the development of the site that do not apply generally to sites in the same zoning district.
2. Granting the application *is/is not* necessary for the preservation and enjoyment of a substantial property right of the applicant, and to prevent unreasonable property loss or unnecessary hardship.

3. Granting the application *will/will not* be detrimental or injurious to property or improvements in the vicinity of the development site, or to the public health, safety, or general welfare.

PICTURES



548 Church Street



Garage off of Frances Avenue



Recommended Action:

Approval with a stipulation. Brad Respass, owner of 548 Church Street, is requesting a reduction in the major side setback so his garage can be extended to accommodate a larger vehicle. The subject property lies at the southeastern corner of Frances Avenue and Church Street and is zoned R-3 (Single Family Residential – 3 units/acre). Other single family residences also zoned R-3 abut on all sides.

The home faces Church Street but the driveway and garage are accessed from the side off of Frances Avenue. Based on the drawing provided, the existing garage is 5' from the property line along Frances Avenue. The project includes extending the garage toward Frances Avenue, leaving a 10" setback. Granting a reduction in the front or major side setback reductions have less of an impact because they are not protecting an adjacent property owner from the negative aspects of a structure's proximity. The subject property also lies within an older section of the City where homes were built prior to modern setback requirements. As a result, the reduction in a setback standard will not cause the structure to be out of character with the rest of the neighborhood.

On August 28, 2000, the Board of Zoning Appeals granted a variance to reduce the major side setback from 25' to 10' for the construction of a new home at 513 Haley Street.

The Marietta Public Works Department has commented that "No portion of the foundation, structure or roof overhang may be located within the Right-Of-Way of Church Street, or Francis Avenue." As a precaution, it is suggested that the location of the new portion of the garage be surveyed prior to commencing construction in order to prevent encroachments.

Because this proposal should not be detrimental to public safety, the surrounding properties, or overall community, *staff recommends approval of this variance request with the following stipulation:*

- *The location of the garage addition be surveyed and staked out prior to beginning construction.*